

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

RICHARD BANKHEAD,

Plaintiff,

v.

AMERICAN SUZUKI MOTOR
CORPORATION,

Defendant.

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CASE NO. 3:07CV208-MHT

DEFENDANT’S OPPOSITION TO MOTION FOR EXTENSION OF TIME

NOW COMES American Suzuki Motor Corporation (“ASMC”) and files this Opposition to Plaintiff’s Motion For Extension of Time. Plaintiff files this motion for extension of time over three weeks after his deadline for filing a response to Defendant’s Motion for Summary Judgment. Plaintiff’s Motion for Extension of Time should be denied. Defendant further states as follows:

1. The Complaint was filed on January 30, 2007. ASMC was served by certified mail with a summons and a copy of the Complaint on February 6, 2007, and timely removed the case on March 8, 2007.

2. The Court entered a scheduling order on April 4, 2007. The scheduling order set out certain deadlines, one of which being when the parties were to disclose and provide expert reports. The Plaintiff failed to disclose his expert on the date, August 6, 2007, or in the manner ordered by the Court. Pursuant to the Court’s scheduling order, ASMC disclosed and provided an expert report on October 8, 2007.

3. On November 19, 2007, ASMC filed a Motion for Summary Judgment and a Motion to Compel Discovery Responses. Both motions were electronically mailed to four different e-mail addresses for the two Plaintiff's counsel, three email address for Zack Collins and one for Stewart Wilbanks. Neither Plaintiff's counsel disputes that the motions were received by e-mail.

4. On November 27, 2007, the Court entered an Order setting a deadline of December 20, 2007, for submission of briefs in opposition to the Motion for Summary Judgment. The Order was electronically mailed to the same four different e-mail addresses for the two Plaintiff's counsel.

5. On November 30, 2007, Plaintiff filed his Motion to Remand.

6. On December 3, 2007, the Court entered an Order setting a deadline of December 20, 2007 (the same date as the deadline for responses to the Motion for Summary Judgment), for submission of briefs in support and in opposition to the Motion for Remand. Again, the Order was electronically mailed to the same four different e-mail addresses for the two Plaintiff's counsel.

7. On December 20, 2007 the Plaintiff's counsel failed to file a response in opposition to the Motion for Summary Judgment or request an extension of time for doing so.

8. On January 7, 2008, the Court denied Plaintiff's Motion to Remand.

9. Plaintiff waited to file his Motion for Extension of Time over three weeks after the deadline passed, and only after his Motion to Remand was denied. It has been over five months since Plaintiff's expert disclosure was due and Plaintiff has yet to disclose his expert in the manner ordered by the Court, or request an extension of time for doing so.

10. Defendant will be prejudiced if Plaintiff is now allowed to file a response at such a late date. The filing of Plaintiff's response will not change the fact that Plaintiff has failed to disclose his expert in the time or manner dictated by the Court. For that reason, Defendant's Motion for Extension of Time should be denied, and the Motion for Summary Judgment should be granted.

WHEREFORE, American Suzuki Motor Corporation prays that the Court deny Plaintiff's Motion for Extension of Time.

This 15th day of January, 2007.

/s/ John D. Mayo

One of the Attorneys for Defendant
American Suzuki Motor Corporation

OF COUNSEL:

Jere F. White, Jr. (WHITJ1759)

S. Andrew Kelly (KELLS3760)

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CERTIFICATE OF SERVICE

I hereby certify that on this the 15th day of January, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Zachary T. Collins, Esq.
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/s/ John D. Mayo
Of Counsel